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TO RUEHC/SECSTATE WASHDC PRIORITY 8103  
INFO RUEHDS/AMEMBASSY ADDIS ABABA PRIORITY 8033  
RUEHDR/AMEMBASSY DAR ES SALAAM PRIORITY 4302  
RUEHDJ/AMEMBASSY DJIBOUTI PRIORITY 3859  
RUEHKM/AMEMBASSY KAMPALA PRIORITY 0969  
RUEHLO/AMEMBASSY LONDON PRIORITY 1771  
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C O N F I D E N T I A L NAIROBI 004901

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E.O. 12958: DECL: 11/27/2015  
TAGS: [PGOV](#) [PHUM](#) [PREL](#) [KDEM](#) [KE](#)  
SUBJECT: PRESIDENT KIBAKI BANS ORANGE RALLIES AND MULLS  
CABINET CONTENDERS

REF: A. NAIROBI 4878

[1](#)B. NAIROBI 4838

Classified By: Political Counselor Michael J. Fitzpatrick for  
reasons 1.4 (b,d)

[1](#)1. 1. (SBU) SUMMARY: Kenya's government banned November 27  
planned nationwide rallies organized by the Orange Democratic  
Movement on the grounds the opposition gatherings pose "a  
threat to national security." The rallies had been called to  
build support for the Orange Democratic Movement and bolster  
their calls for early elections, which the government  
steadfastly refuses to accept. President Kibaki is expected  
to announce his new Cabinet imminently. Kibaki's inclusion  
of Orange leaders in the new Cabinet would speed the process  
of national reconciliation. Their exclusion risks deepening  
political divisions and the derailment of the reform process  
in Kenya. END SUMMARY.

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Government Restricts Freedom of Assembly  
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[1](#)2. (U) During a mass thanksgiving gathering held by the  
Orange Democratic Movement (ODM) in Nairobi November 26,  
Orange leaders announced plans to hold similar rallies around  
the country. The rallies would serve to reward voters who  
rejected the draft constitution as well as to garner support  
for the ODM's calls for the dissolution of Parliament to  
bring about early elections. The government was quick to  
respond by banning all future Orange rallies. Vice-President  
Moody Awori stated November 27 the government &considers  
this call for nationwide rallies inappropriate and a threat  
to national security.<sup>8</sup> Awori, trying to distance the  
government from the resounding defeat of the draft  
constitution, further stated that the results of the  
referendum in no way should be construed to be an assessment  
of government performance and therefore &there is no  
reason<sup>8</sup> for fresh elections.

[1](#)3. (C) The government decision sparked protest from the ODM  
as being in violation of Kenyans' right to assembly.  
Makadara MP Reuben Ndolo told Poloff November 28 the latest  
announcement was further evidence of the government "trying  
to become dictators." He argued that the reasoning given,  
that the planned Orange meetings around the country to thank  
voters for their support had the potential to become violent,  
was simply wrong, highlighting the calm manner of Nairobi's  
huge rally. Orange leaders declared the government,s ban

illegal and have indicated their intent to continue with the planned rallies, currently scheduled to begin December 10.

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ODM In Need of Clear Leadership  
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¶4. (U) Awori offered no details on acknowledged government plans to consult with the ODM regarding a new constitution or government. Despite their calls for reconciliation and national healing, Orange leaders sent contradictory messages about their willingness to cooperate with the President. During the November 26 rally, former Roads Minister Raila Odinga was adamant that they are not interested in negotiations<sup>8</sup> but rather want fresh elections. At that same rally, former Environment Minister Kalonzo Musyoka invited the President to negotiate with them. Further complicating the ODM's ability to effectively negotiate with the government is its apparent lack of a defined leadership structure. While there are several outspoken leaders of the ODM (mostly LDP and KANU party leaders), no unified leadership structure has yet been developed. This may be due in part to the challenge of binding together the unlikely bedfellows who joined forces to defeat the proposed constitution. However, such cohesion within the movement is necessary as the ODM leaders insist the movement will only re-enter government as a team, rather than on an individual basis. Indeed, they signed an agreement to that effect.

----- Elections, Power-sharing, and a New Constitution - Quickly -----

¶5. (C) Former National Heritage Minister Najib Balala confirmed this strategy November 25 to the DCM. Balala said

the ODM plans to demand a specific timetable for a new constitution and snap elections. They want a commitment to produce a new constitution within three months of the reconvening of Parliament, (not expected now until March 2006). The ODM seeks fresh elections; however, if that is not possible, they want a "proper government" formed in consultation with the ODM. Balala agreed that reconciliation is important but insisted that there will be no change in the ODM's position as they believe their stand was ratified by the majority of Kenyan voters.

¶6. (C) COMMENT: President Kibaki may find any attempts to reach out to and incorporate the ODM leaders into a new Cabinet extremely difficult in the absence of a clear leader of the ODM who can negotiate on behalf of the team. Kibaki is expected to announce his new Cabinet presently. The individuals selected to join his government will reveal much about how Kibaki plans to chart the course ahead. The ODM's agitation for snap elections will likely increase to a fever pitch should the President exclude ODM leaders from Cabinet positions and continue to resist calls to dissolve Parliament to initiate fresh elections. The ban on ODM rallies is a disturbing restriction on the freedom of association, betrays a conflation of ruling party and national interests, and risks further alienating the ODM and current fence-sitters from the government.

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